

Supporting Statement for the Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing) (OMB No. 7100-0202)

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the recordkeeping and disclosure requirements of Regulation M, which implements the Consumer Leasing Act (CLA).¹ The Paperwork Reduction Act (PRA) classifies these regulatory requirements as an “information collection” and the Act requires the Federal Reserve to renew these requirements every three years.² If approved by the Board, a notice of the renewal will be published in the *Federal Register* for public comment.

The CLA and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The act and regulation also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions.

The information collection pursuant to Regulation M is triggered by specific events. All disclosures must be provided to the lessee prior to the consummation of the lease and when the availability of consumer leases on particular terms is advertised. There are no reporting forms associated with Regulation M. To ease the compliance cost (particularly for small entities) model forms are appended to the regulation. Lessors are required to “retain evidence of compliance” for twenty-four months, but the regulation does not specify types of records that must be retained.

Regulation M applies to all types of lessors of personal property. The Federal Reserve accounts for the paperwork burden associated with the regulation only for Federal Reserve-supervised institutions.³ Other federal agencies account for the paperwork burden on other lessors for which they have administrative enforcement authority.

The Federal Reserve estimates that there will be 270 Federal Reserve-supervised institutions that are deemed “respondents” for purposes of the PRA, and an average frequency of 120 responses per respondent each year. The Federal Reserve also estimates that about fifteen of

¹ The CLA was enacted in 1976 as an amendment to the Truth in Lending Act and is codified at 15 U.S.C. § 1667-1667f. Regulation M is located at 12 C.F.R. Part 213.

² 44 U.S.C. § 3501 *et seq.* The collection of information under Regulation M is assigned OMB No. 7100-0202 for purposes of the PRA.

³ Appendix B – Federal Enforcement Agencies – of Regulation M defines the Federal Reserve-supervised institutions as: State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

these institutions advertise their consumer lease programs approximately four times per year. The total amount of annual burden is estimated to be 3,534 hours for Federal Reserve-supervised institutions.

Background and Justification

The CLA and Regulation M require lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease transactions. Disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The regulation generally applies to consumer leases of personal property in which the contractual obligation does not exceed \$25,000 and has a term of more than four months. An automobile lease is the most common type of consumer lease covered by the regulation. The CLA does not authorize exemptions for small entities.

In October 1996, the Board substantially revised Regulation M pursuant to its policy of periodically reviewing its regulations.⁴ The 1996 revisions updated the disclosure requirements to more effectively carry out the purposes of the CLA. In April 1997, Regulation M was amended to implement statutory amendments contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 that streamlined the advertising disclosures.⁵ The Board also revised the disclosures required for particular lease transactions to parallel the statutory changes for advertising disclosures.⁶ In September 1998, the Board published amendments to Regulation M to implement statutory amendments clarifying the rules on disclosures for lease payments, advertisements, and rounding calculations.⁷

The Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective in October 2000, authorizes the use of electronic records to satisfy the legal requirement that documents be in writing.⁸ The E-Sign Act contains special rules for the use of electronic disclosures in consumer transactions; such disclosures may be provided electronically only if the consumer provided affirmative consent after receiving certain information specified in the statute. The E-Sign Act did not require the Board to adopt implementing regulations.

In March 2001, the Board issued an interim final rule, authorizing depository institutions to provide disclosures electronically under Regulation M consistent with the requirements of the E-Sign Act.⁹ The interim rule also provided uniform standards for satisfying the timing and delivery requirements of Regulation M when electronic disclosures are used. Compliance with

⁴ 61 FR 52246 (October 7, 1996).

⁵ Pub. L. 104-208, 110 Stat. 3009.

⁶ 62 FR 15368 (April 1, 1997).

⁷ 63 FR 52109 (September 29, 1998).

⁸ 15 U.S.C. § 7001 et seq.

⁹ 66 FR 17795 (April 4, 2001).

the 2001 interim rule is optional.¹⁰ Depository institutions must provide electronic disclosures in accordance with the consent requirements of the E-Sign Act, but they need not follow the additional requirements of the 2001 interim rule.

Description of Information Collection

The purpose of Regulation M disclosures is to enable consumers to compare the costs and terms of different leases in order to make an informed decision and, where appropriate, to compare lease terms with those for credit transactions. The recordkeeping and disclosure requirements associated with Regulation M are described below. No other federal law mandates these disclosures, although some states may have similar requirements.

Lease Disclosures (Section 213.4)

The CLA applies to persons who regularly lease, offer to lease, or arrange to lease personal property to consumers. Under the CLA and Regulation M, lessors are required to provide certain key information to consumers before they enter into the lease transaction. The requirements apply to leases of personal property for a period exceeding four months where the contractual obligation is \$25,000 or less. The frequency of response varies according to the lessor's level of consumer leasing activities.

The costs and terms of the lease must be disclosed to consumers in a standard, uniform manner. Information must include the total amount due at lease signing or delivery; the number, amount, due dates or periods of payments under the lease, and the total amount of these payments; and other terms relating to the rights and responsibilities of both parties to the lease. An alternative source of information available to consumers is the lease contract, which might contain many of the same items, but not all of them and not in the same terminology or form.

Advertising Rules (Section 213.7)

The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information. The frequency of response varies according to the level of advertising activity by the lessor. The advertising requirements apply to all persons that promote the availability of consumer leases through commercial messages in any form, including messages in print or electronic media, direct mailings, or on any sign or display. Advertising certain terms triggers the requirement for additional disclosures. For television or radio advertisements, special rules allow alternative disclosures using toll-free telephone numbers or written advertisements in a publication of general circulation.

Time Schedule for Information Collection

The information collection pursuant to Regulation M is triggered by specific events. Disclosures must be provided to the lessee prior to the consummation of the lease and when the

¹⁰ 66 FR 41439 (August 8, 2001).

availability of consumer leases on particular terms is advertised. There is no reporting form associated with the requirements of Regulation M. Lease-specific disclosures are not submitted to the Federal Reserve, are not publicly available, and are not published. Disclosures of lease terms that appear in advertisements are available to the public.

Legal Status

The Board's Legal Division has determined that sections 105(a) and 187 of TILA (15 U.S.C. §§ 1604(a) and 1667f) authorize the Board to issue regulations to carry out the provisions of the Consumer Leasing Act. The information collections are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises.

Estimate of Information Collection Burden

The estimated total annual burden for Federal Reserve-supervised institutions for this information collection is 3,534 hours, as shown in the table below. The Federal Reserve has found that few of these institutions engage in consumer leasing and that while the prevalence of leasing has increased in recent years, it has not increased substantially among Federal Reserve-supervised institutions. The Federal Reserve has estimated that only 270 institutions engage in consumer leasing with an average frequency of 120 transactions per year. The Federal Reserve also estimates that about fifteen institutions advertise their leasing program approximately three times per year. This represents less than 1 percent of total Federal Reserve System paperwork burden.

No paperwork burden is deemed to be associated with the requirement in Regulation M that lessors "retain evidence of compliance" for a minimum of two years after the date disclosures are required to be made (section 213.8). The regulation does not specify the kind of records that must be retained for this purpose.

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
Disclosures	270	120	6.5 minutes	3,509
Advertising	15	4	25 minutes	<u>25</u>
<i>Total</i>				3,534

Based on an hourly cost of \$20, the annual cost to the public is estimated to be \$70,680.

Financial Industry Burden Averages

The other federal financial agencies are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement

authority.¹¹ They may, but are not required to, use the Federal Reserve's burden estimates. Using the Federal Reserve's method, the total estimated annual burden for all financial institutions subject to Regulation M, including Federal Reserve-supervised institutions, would be approximately 252,669 hours. The above estimates represent an average across all respondents and reflect variations between institutions based on their size, complexity, and practices. All covered institutions, such as retailers, finance companies, mortgage bankers, and depository institutions (of which there are approximately 19,300) potentially are affected by this collection of information, and thus are respondents for purposes of the PRA.

Estimate of Cost to the Federal Reserve System

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.

Consultation Outside the Agency

There has been no consultation with specific individuals outside the Federal Reserve System.

Sensitive Questions

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

¹¹ Appendix B – Federal Enforcement Agencies – of Regulation M lists those federal agencies that enforce the regulation for particular classes of business. The federal financial agencies include: the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration. The federal non-financial agencies include: Department of Transportation, Packers and Stockyards Administration, Farm Credit Administration, and Federal Trade Commission.